

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

v.

ANDREW SHELTON, et al.

15 CR 350

Judge John J. Tharp, Jr.

SUPPLEMENT TO GOVERNMENT'S SANTIAGO PROFFER

The UNITED STATES OF AMERICA, by its attorney, ZACHARY T. FARDON, United States Attorney for the Northern District of Illinois, submits the following supplement to its Santiago Proffer (DE 235). Pursuant to the Court's order February 2, 2017 order (DE 236), the government has identified all statements it intends to seek introduction of at trial at least in part based on Federal Rule of Evidence (FRE) 801(d)(2)(E).¹ The government will admit these statements through the testimony of three witnesses, Alexander Peebles, Elgin Lipscomb, and Marcel Turner.

1. Anticipated coconspirator statements presented through Alexander Peebles.

Alexander Peebles is expected to testify at trial regarding his involvement as part of the crew who stole the approximately 111 firearms from the cargo train on April 12, 2015. Peebles will testify how his crew (Peebles, Elgin Lipscomb, and Andrew Shelton) joined forces with a second crew (Terry Walker, Patrick Edwards,

¹ As noted during the hearing, many of these statements are admissible in other non-hearsay ways at trial. However, the government is including in this filing all statements it may seek to admit under FRE 801(d)(2)(E).

Dandre Moody, Frederick Lewis, and Marcel Turner) to steal approximately 111 firearms and later sell or conceal the firearms from law enforcement's detection. Below are the specific conversations the government anticipates introducing at trial through Peebles pursuant to FRE 801(d)(2)(E).

a. Initial planning with Shelton and Lipscomb

Peebles will testify he spoke to Lipscomb on the phone the evening of April 11, 2015, regarding their plans to steal from the trains. During the call, Peebles recalled Lipscomb stating, "did you hear from Manki" ["Manki" is Andrew Shelton's nickname]. Peebles responded, "not yet." Lipscomb stated, "we going to make some money today." [meaning they would hopefully find good things to steal on the trains.] Peebles responded, "yes." Lipscomb concluded the call stating, "Manki should be calling you soon."

Peebles will testify that a short time later Shelton called and said he was downstairs. After Lipscomb and Shelton arrived at Peebles' residence, the three men drove around waiting for a cargo train to arrive. During the ride, the three men talked about what might be on the train. Peebles could not recall exactly who said it but someone in the car stated, "we hope we get something good."

Peebles will testify that after waiting near the train tracks for a train to arrive in Chicago, Lipscomb stated, "let's ride over to Indiana to see if any trains are over there." The three men drove to Indiana to look for trains. The three men later drove back to Chicago and started following a cargo train. Lipscomb said to Peebles, "where do you want me to let you all out at?" Peebles responded, "at 83rd." Peebles will

testify that he and Shelton then exited Lipscomb's vehicle and walked up on the train tracks. Peebles called Lipscomb from the tracks and stated, "we waiting to get on the train." Peebles kept the phone call with Lipscomb connected and would communicate with Lipscomb regarding the items he and Shelton were finding on the train. Peebles would also continuously ask Lipscomb if there were any police on the road.

Peebles will testify that while he and Shelton were searching the cargo trains, they would talk to each other regarding the items they were finding. Shelton would ask Peebles, "tell me what it is" and Peebles would respond by telling him what was in the train. For example, prior to locating the guns, Peebles and Shelton discovered women's sandals. Peebles told Lipscomb, "we just found some shoes, women's sandals." Lipscomb responded, "you going to get them?" Peebles responded, "yes."

b. Joining of the two robbery crews

Peebles will testify that while he and Shelton were looking through the train car, Lipscomb stated over the phone, "somebody else is up there walking the track." Peebles told Shelton, "Elgin [Lipscomb] said there is someone else up here might be the police." Shelton responded, "where are they at?" Peebles asked Lipscomb "where they at?" Lipscomb responded, "they are about 5 cars behind you, 3 or 4 people." Peebles will testify that Lipscomb later said, "Big Pat's [Patrick Edwards] van is over here." Peebles told Shelton the information he received from Lipscomb. Peebles spotted someone running with boxes from the train to the bushes and told Shelton, "let's see what they got."

Peebles will testify he and Shelton went over to the other train car and encountered Frederick Lewis who they knew from the neighborhood. Peebles stated to Lewis, “what you all getting?” [what items have you found on the train?] Lewis responded, “we getting bangers” [guns] Peebles stated, “are you for real?” Lewis responded, “yes.”

Peebles will testify he then informed Lipscomb over the phone, “They got bangers!” Lipscomb responded, “What you waiting on?” [meaning, go get them]. Peebles told Shelton that Lipscomb said to get the guns.

Peebles will testify that Terry Walker and he spoke on the tracks and Walker stated, “are we going to do this together or separate?” [meaning steal the guns together as one group or two separate groups.] Peebles stated, “let’s do it as a whole.” Peebles will testify the two crews started working together to unload the guns from the train.

Peebles will testify that Walker asked him, “who you all riding with?” Peebles responded, “rat” [Lipscomb]. Peebles asked Walker who he was riding with and Walker responded, “Moody and [a name Peebles could not recall].” Walker told Peebles to tell “rat” to meet Moody at Shark’s chicken on 83rd and Chicago. Walker asked Peebles what type of vehicle Lipscomb was driving. Peebles told Walker Lipscomb was driving a Suburban. Peebles overheard Walker telling Moody by phone to look for Lipscomb’s car which was a Suburban. Peebles heard Walker ask Moody if he sees him and then Walker said, “follow him.”

Peebles will testify he told Lipscomb by phone to drive up the Skyway and pick them up. Lipscomb said “they are on the way.”

c. Loading of cars and call between Peebles and Walker

Peebles will testify once the three cars arrived [driven by Lipscomb, Moody, and Turner], all the men loaded the firearms into the vehicles. During this time, Peebles recalled someone saying, “is that everything?” and someone responding “yes.”

Once in the vehicles, Peebles will testify he and Walker spoke by phone regarding where the crew should take the stolen guns. Walker stated, “where we going?” Peebles responded, “I don’t know.” Lipscomb suggested taking the guns to Peebles’ house and Peebles said no. Lipscomb stated the group could bring the guns to his house. Peebles told Walker, “Rat said we can go to his house.” Walker responded, “where does he live?” Peebles stated, “76th and Morgan.” Walker responded, “ok, we are right behind you.”

d. Lipscomb’s residence

At Lipscomb’s residence, the men all unloaded the firearms and brought them into Lipscomb’s basement. Peebles will testify that all the men started opening the firearms boxes in the basement and saying, “oh man! These mother fuckers are pretty!” Peebles stated the men started shouting out the types of guns they were finding in the boxes.

Peebles will testify that Edwards said at one point in the basement, “let’s go get the rest of them. There is still more on the train.” The men all agreed and made a second trip to the train yard.

e. Second trip to railyard

Peebles will testify the crew drove back to the railyard to steal additional firearms from the train. After arriving at the railyard, Peebles stated to Lipscomb, “let me go back up there and make sure everything is straight.” Shelton and Peebles went back up to the tracks. Peebles and Lipscomb communicated about whether there were any police on the road similar to prior trip. The men loaded up the guns again and returned to Lipscomb’s residence with the stolen firearms.

f. Conversations regarding sales of firearms

Peebles will testify that Walker called him later in the day on April 12 and asked if he had sold all of his guns. Peebles responded that he had not. Walker told Peebles, he “had a sale for them.” Peebles informed Walker that he was “straight.” [meaning he did not need Walker’s assistance in selling the firearms.]

Peebles will testify that one week after the theft, Moody called and asked if Peebles “knew someone interested in buying more guns.” Peebles responded, “I thought you had a buyer?” Moody responded, “dude reneged on us, he just wanted one for himself.” Peebles asked who the buyer was and Moody responded, “that mother fucker nate.” Peebles stated, “I will let you know.”

Peebles will testify that a few days after the theft, Peebles was with Shelton who told him to “come to my Auntie’s crib.” Shelton told Peebles he sold one firearm to his aunt and that she was going to sell another one to a coworker. Shelton told Peebles his aunt paid around \$250 for the firearm.

Peebles will further testify about a conversation he had with some of his coconspirators the day his house was searched by law enforcement (June 4, 2015). Peebles went into hiding from law enforcement and spoke to Shelton and Lipscomb at a hotel. Shelton and Lipscomb asked Peebles what he was going to do and Peebles talked about going to Ohio. Peebles asked both Lipscomb and Shelton for money and they both agreed to give Peebles money.

The following day, Peebles asked Lipscomb to take him to Walker's house so he could ask Walker for money. At Walker's residence, Peebles told Walker the police had searched his house and he needed to go into hiding. Walker first accused Peebles of lying about the police and then gave him a few hundred dollars and told Peebles to call him later.

Later that same day, Shelton came by Peebles' hotel room and told him that he "cleared house" and took his firearms from his house to his Aunt's house to avoid detection by law enforcement.

2. Anticipated coconspirator statements presented through Elgin Lipscomb.

a. Initial planning with Shelton and Lipscomb

Lipscomb will testify that on April 11, 2015, he spoke to Peebles by phone regarding the plan to steal from the trains that evening. Lipscomb will testify that Peebles stated, "you ready to go bust a move" [meaning you ready to go to the trains.]

Lipscomb responded, “ok, I will pick you up soon.” Lipscomb asked, “where is Manki?” [Andrew Shelton]. Peebles responded, “he will meet us at my house.” Lipscomb later called Peebles and stated, “I’m downstairs.”

Lipscomb will testify that the three men drove around looking for a train to steal from. Lipscomb recalled general conversation in the car about everyone saying “We need some money, hoping for big lick tonight.”

Lipscomb will testify that after dropping off Peebles and Lipscomb at the tracks, he remained in the car and stayed in cell phone contact with Peebles. Lipscomb will testify that Peebles told him what type of merchandise they were finding on the trains. Lipscomb remembered Peebles stating that at first they had found women’s sandals which were good. Lipscomb recalled Peebles asking him if everything was good down there. [meaning were there any police around]

b. Joining of the two crews

Lipscomb will testify that Peebles told him over the phone that they ran into “Tito” [Walker] and his crew up on the tracks. Lipscomb will testify that Peebles told him “man g, we got some guns.” Lipscomb told Peebles, “stop playing.” Peebles assured Lipscomb that he was serious and continued to ask him “we cool on the street” [meaning were there any police coming by] while they unloaded the guns from the train. Peebles told Lipscomb to meet up with the Walker crew drivers and come up the Skyway which he did.

c. Loading of cars and call between Peebles and Walker

Lipscomb will testify the three cars pulled up together on the Skyway and people were yelling to hurry up. Lipscomb will testify regarding a phone call he overheard between Peebles and Walker about where to take the guns. Lipscomb will testify at first they talked about bringing the guns to Walker's residence, but then decided to take them to Lipscomb's residence. Lipscomb will testify that during the ride from the tracks to his residence, Shelton was opening the gun boxes and describing the types of guns they had stolen.

d. Lipscomb's residence

Lipscomb will testify that after the crew unloaded the guns into his basement, he recalled Lewis stating that they needed to go back to the train and get more guns. Lewis stated there were additional guns on the train. All the men agreed to return to the train to get more guns.

e. Second trip to railyard

Lipscomb stated the second trip was similar to the first. Lipscomb dropped off Shelton and Peebles and stayed in cell phone contact with Peebles. During this trip, Lipscomb recalled Peebles telling him "we found smaller guns." Peebles also continued to ask whether "everything was straight" on the road.

f. Splitting up of the guns

Lipscomb will testify that back in the basement, he recalled Walker and Peebles counting the guns together and Walker being responsible for splitting up of

the guns. Walker started passing out the guns by type saying, “we are going to do the small guns first, and then the bigger guns.”

3. Anticipated coconspirator statements presented through Marcel Turner

a. Initial call from Walker

Turner will testify that on the evening of April 11, 2015, he was out with his girlfriend when he received a call from Terry Walker. Walker stated, “you want to make some money? Come pick me up and meet him at South Chicago.” Turner told Walker he was interested and met him near the 8700 block of South Chicago. Turner noticed two other vehicles when he arrived. Walker told Turner over the phone to “follow Moody.”

Turner will testify that a short time later Walker got into his car. Walker told Turner, “we got polls” [slang for guns.] Turner overheard Walker on the phone asking someone “where we going?” Walker also stated, “it doesn’t make sense to go all the back that way.” Walker then told Turner to follow the car in front of him and they drove to Lipscomb’s residence.

b. Conversation in Lipscomb basement

Turner will testify the men arrived at Lipscomb’s residence and unloaded the firearms into the basement. Turner will testify the general conversation in the basement was essentially people talking about being scared and saying they should go back for more guns. Turner will testify that he asked Walker “what’s my cut?”

[meaning how much will he be paid for being the driver]. Walker responded, “you have to wait until we finish the night to see what we get.”

c. Return trips to the railyard

Turner will testify he drove Walker and Lewis back to the tracks to steal more firearms. During the ride, Turner will testify that Lewis stated “he hoped the train was still there” and “they were going to make some money tonight.” Turner also recalled being on a conference call with the other driver and other people up on the tracks. Walker would continuously ask if there were any police around and Turner would respond, “it’s cool.” Eventually Walker stated over the phone, “we’re ready” and told Turner to follow the other vehicles to the skyway.

After loading the car with the firearms, Walker and Lewis got back into Turner’s vehicle and they headed back to Lipscomb’s residence. During the drive, Lewis was opening the boxes and describing the types of guns they had stolen. Lewis was getting excited and Turner told him to “calm down” because he was worried about police.

Turner will testify that after unloading the guns at Lipscomb’s residence, they made another trip back to the tracks to get shoes which they brought to a different location.

d. Splitting up of the firearms.

After returning to Lipscomb’s residence the guns were split up. Turner will testify that Lewis said that Turner should not get the same “curve” [cut] as others since he was just the driver. Walker told Turner not to worry about it and that he

will make sure “something happens for you” and that he will make sure Turner was “straight.” [meaning get his fair share.]

e. Sale of firearms.

Turner will testify after the guns were split up, he and Walker drove back to Walker’s garage with the guns. A short time later, Lewis and Moody showed up. Turner stated that Walker told him to go home and call him when he woke up because he had someone who would buy the guns from them.

Turner will testify he woke up around noon and called Walker. Walker told him he was waiting on a person who was going to buy the guns and call him back. Walker called an hour later and told Turner to meet Walker at his house to sell the guns. At Walker’s house, Turner, Walker and Lewis loaded the guns into Walker’s van.

Turner will testify the three men drove to “Nate’s” store. [Nathan Driggers.] Driggers asked Walker what the retail value of the guns was and Walker told Driggers to look it up online. On the ride back to Walker’s residence, Turner asked Walker and Lewis how much money they received from Driggers.

A few hours after the sale of the firearms to Driggers, Walker called Turner again and asked him to drop additional guns off at a Walgreens parking lot to a female customer. Walker told Turner he would pay him \$150 to do this. Turner asked who the buyer was and Walker stated it was someone’s aunt. Walker stated she would be driving a maroon truck and would have between \$900-\$1,000 for 3 firearms. Turner later completed this sale and gave the money to Walker.

Turner will further describe an additional sale of a firearm he witnessed at Walker's music studio. Turner heard Walker tell Moody to bring his guns to the studio because he had a buyer. Moody said ok.

Turner will also testify that not too long after the theft, Lewis asked him to drive him to a location near 57th so Lewis could drop off one of his guns with someone. Turner will testify he drove Lewis to the location and Lewis grabbed one of the guns from the car and brought it to an unknown individual. Turner asked Lewis what he was doing with the firearm and Lewis said he was dropping it off with someone.

Respectfully submitted,

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